

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Patrick G. Martin,) No. CV-11-02129-PHX-ROS
Plaintiff,) **ORDER**
vs.)
Charles L. Ryan, et al.,)
Defendants.)

)

Pending before the Court is the Magistrate Judge's April 24, 2012 Report and Recommendation ("R&R"). (Doc. 13). The R&R recommends the petition for writ of habeas corpus be denied and dismissed with prejudice. Petitioner did not file any objections.

A district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b). Where any party has filed timely objections to the magistrate judge's report and recommendations, the district court's review of the part objected to is to be *de novo*. *Id.*; see also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) ("Following *Reyna-Tapia*, this Court concludes that *de novo* review of factual and legal issues is required if objections are made, but not otherwise.") (internal quotations and citations omitted).

1 No objections being made, the Court will adopt the Report and Recommendation in
2 full.

3 || Accordingly,

4 **IT IS ORDERED** the Report and Recommendation is **ADOPTED** and the Petition
5 (**Doc. 1**) is **DENIED** and this case is **DISMISSED WITH PREJUDICE**.

6 **IT IS FURTHER ORDERED** a Certificate of Appealability and leave to proceed *in*
7 *forma pauperis* on appeal is **DENIED** because the dismissal of the Petition is justified by a
8 plain procedural bar and jurists of reason would not find the procedural ruling debatable.

9 DATED this 16th day of May, 2012.


Roslyn O. Silver
Chief United States District Judge